



Memorandum

U.S. Department
of Transportation

**Federal Railroad
Administration**

Date: **MAR 21 2005**

Reply to Att. of: MP&E 05-01

Subject: **Guidelines for Preparing New MP&E Violation Report - FRA F 6180.109**

From: **Edward W. Pritchard**
Director, Office of Safety Assurance and Compliance

To: **Regional Administrators, Deputy Regional Administrators,
Motive Power & Equipment - Specialists and Inspectors**

Effective immediately a new form, FRA F 6180.109, "Motive Power & Equipment Violation Report Form" will be used by Inspectors when submitting violation reports for 49 CFR Parts 209, 210, 215, 223, 224, 229, 230, 231, 232, 238, 40 CFR Part 201, (Noise Violations, EPA), and Statutory Violations of USC 49 Subtitle V Chapters 203 & 207. This new form replaces all forms previously used in connection with MP&E violation recommendations, except for violations associated with Parts 218 and 221. Form FRA 6180.67 will continue to be used for Parts 218 and 221.

Form FRA F 6180.109 and a help guide are components of the RISPC v3.7 program, and can be accessed from within RISPC or the shortcut icon. The software automatically transfers some of the information from the F 6180.96 Inspection Report over to Form F 6180.109.

Note: A narrative section is still required and shall be inserted in Item 44 (Violation Narrative) of the form. Any attachments such as photographs or other supporting documentation should be included in the F 6180.109 package. The attached instructions provide specific details on how to prepare violations using the Form FRA F 6180.109.

All future violations are to be submitted using the F 6180.109 format. If you have any questions regarding the use of this form, please contact your Regional Specialist.

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Attachment

Inspector Instructions for Completing MP&E Violation Report Form (FRA F 6180.109)

FRA has developed and revised violation reporting procedures for each of the five technical disciplines. Each discipline now has the ability to generate violation reports from their personal computer (PC), within the RISPC program. Each form has detailed instructions on how to complete the respective forms embedded in the software.

FRA Form F 6180.109: This report replaces all other MP&E violation reports previously used in connection with violation reporting of MP&E type violations, *except* for those associated with Parts 218 and 221. FRA Form F 6180.109 is a component of the RISPC v3.7 program and can be accessed from within RISPC or via a shortcut icon.

When using RISPC and the violation box is checked “yes” on the F 6180.96 inspection report line item, some of the information is automatically transferred from the F 6180.96 inspection report to the FRA Form F 6180.109 violation report. After the program is installed on the PC and the inspector assigns a violation report number to the first violation report completed, the program will sequentially number all future violation reports automatically.

FRA Form F 6180.109 will be used for the following violations:

- Part 209 - Railroad Safety Enforcement Procedures
- Part 210 - Railroad Noise Emission Compliance Regulations
- Part 215 - Railroad Freight Car Safety Standards
- Part 223 - Safety Glazing Standards-Locomotives, Passenger Cars and Cabooses
- Part 224 - Reflectorization of Rail Freight Rolling Stock
- Part 229 - Railroad Locomotive Safety Standards
- Part 230 - Steam Locomotive Inspection and Maintenance Standards
- Part 231 - Railroad Safety Appliance Standards
- Part 232 - Brake System Safety Standards for Freight and Other Non-passenger Trains and Equipment; End-of-Train Devices
- Part 238 - Passenger Equipment Safety Standards
- Part 201 (40 CFR - Certain Noise Violations)
- Statutory Violations - USC 49 Subtitle V Chapters 203 & 207

FRA Form F 6180.67: “Violation of Federal Railroad Safety Regulations,” is used to submit violation reports in connection with CFR Part 218 - Subpart C, Blue Signal Protection of Workers, and Part 221 - Rear End Marker Devices. FRA Form F 6180.67 is also used for other OP violations. Detailed instructions similar to these are also embedded in the RISPC program. Refer to those instructions for completing FRA Form F 6180.67. This form behaves in the same manner as FRA Form F 6180.109 and resides within the RISPC v3.0 program.

The RISPC Program, F 6180.96: F 6180.96 Inspection Report preparation *is mandatory* for all inspections where civil penalty action (a violation report) is recommended. Federal Regulations

require railroads to submit Notification of Remedial Action to FRA for all violations 30 days after the end of the calendar month in which notice of violation occurred. To complete the regulatory cycle, inspectors should complete the Remedial Action portion of the inspection report, as soon as the report (railroad copy), is received from the railroad. In this regard, it is required that inspectors update all inspection reports containing violations as soon as possible. This helps ensure the integrity of FRA's inspection report database and the regulatory requirements.

Submission of Photographs as Evidence: Photographs provide strong evidence in support of a violation. If photographs are included in the violation, the inspector will attach (mount) each photograph to a piece of paper and explain what each photograph shows (*be certain that the photo clearly depicts the defect and location of the defect(s) in question*).

If photographs are part of the evidence, both the original and second copy of each violation report must have mounted photographs when they are submitted to FRA's Office of Chief Counsel. This is required so that when one copy is furnished to the respondent, the respondent will have the same evidence that the FRA has in its possession. Copies of digital photographs are acceptable, provided the inspector makes a statement in his/her violation report indicating the digital photographs have not been altered in any way. Photographs, which have been altered in any way, must not be included as violation evidence.

It is recommended that in Item 44 (Violation Narrative) the word "Attachments" be included at the bottom of the page, followed by a "Table of Contents" page, and then followed by all subsequent pages of attachments.

Statements of Witness or Reports of Interview:

- Unless a violation is substantiated by an inspector's personal knowledge or by records the FRA requires railroads to maintain, the violation report should be accompanied by Statements of Witness report(s) obtained from railroad employees, railroad officials, or other persons who know the circumstances surrounding the non-complying act or condition. If a statement is the only proof of non-compliance, the use of a "Witness Statement" is required.
- If "Reports of Interview" must be attached to violation reports, care must be exercised as this could result in unintentional FRA non-compliance with the requirements of Public Law which prohibits disclosure of railroad employees who report railroad safety violations without their written consent.

When using "Reports of Interview" to help ascertain the facts, policy requires that the inspector must:

- Advise the person that the interview is voluntary;

- Advise the person that the interview will be attached to a violation report and submitted to the railroad or company when a penalty demand is issued; and
 - Prior to submission, the interview report must be validated by the person being interviewed. This can be accomplished either by mail or hand delivery.
- Each “Witness Statement” or “Report of Interview” must contain the time, date, full name, title, and mailing address of the person who was interviewed.

Copies of Railroad’s Records:

- When applicable, the violation report must be accompanied by legible copies of the railroad's applicable records, containing information that will provide the FRA's Office of Chief Counsel with substantiating documentation and a clear understanding of the violation of Federal safety regulations.
- This information may be submitted in the form of duplicated copies of the railroad's records or through comprehensive, word-for-word extracts taken from the railroad's records.

Motive Power & Equipment Violation Report Form F 6180.109

Item Field

1. **Subject:** Click on the arrow to select the appropriate subject text from the drop down list. The text chosen for this field must be selected from the drop down list; manual entries are not allowed. Completion of this field is mandatory.
2. **Violation of:** Check the appropriate box (e.g., 40 CFR, 49 CFR or Statutory Section). Enter the exact Part, Rule and Sub-rule for the violation from the CFR. Only one line entry is allowed in this field. Completion of this field is mandatory.
3. **Report No.:** This field is auto-populated based on the number assigned when the program is started for the first time. The report number can only be edited from the start window. It cannot be edited once the violation form is open.
4. **Related Viol. Report No.(s):** Related violation report numbers should only be entered when multiple violations are issued and related to one another, (e.g., more than one locomotive or car in same train movement). Completion of this field is optional. It can contain up to 20 characters.

Item Field

5. **Inspection Report No. - Report Date:** This field is auto-populated from the F 6180.96 Inspection Report. Since inspection reports are required for all violations, a violation report may not be prepared unless a corresponding inspection report has been created and present on the hard drive. This field cannot be edited.
6. **Additional Violations Violated:** If applicable, enter other sections of the CFR or Statute that the locomotive or car may be in violation of. Since field 2 will only allow for one line of text, this field is the location where additional sections of the CFR may be cited. Locomotives or cars with multiple defective conditions could affect the aggregate number of civil penalties assessed on a railroad. Completion of this field is optional. It consists of four sub-fields, with 23 characters per sub-field available. If additional space is needed, use the narrative section (Item 44), to detail additional regulations violated.
7. **Operating Railroad:** This field is auto-populated from the F 6180.96 Inspection Report. This field cannot be edited.
8. **RR Initials:** This field is auto-populated from the F 6180.96 Inspection Report. This field cannot be edited.
9. **Railroad Division:** This field is auto-populated from the F6180.96 Inspection Report. This field cannot be edited.
10. **Name of Inspector(s):** This field is auto-populated from the F 6180.96 Inspection Report. The name of the primary inspector cannot be edited. Two additional inspectors' names may be entered by clicking and entering the appropriate names directly in the field. Each sub-field can hold up to 25 characters.
11. **ID Number:** This field is auto-populated from the F 6180.96 Inspection Report. This field cannot be edited. Only one inspector ID is necessary for this field.
12. **Date(s) of Violation:** This field consists of two sub-fields. Completion of the top field is mandatory and is auto-populated from the F 6180.96 Inspection Report. The default date will be the same date used on the inspection report. However, if it is necessary to change the date, click on the arrow and select the appropriate date from the drop down calendar. The second sub-field can hold up 25 characters and should only be used when citing violations for multiple days.
13. **Time of Violation:** This is the time when the violation occurred based on personal observation, "Statement of Witness" (signed), or records. Click in the field and enter the appropriate time. This field is limited to 20 characters. Completion of this field is mandatory.

Item Field

14. **Inspection Point:** This field is auto-populated from the F 6180.96 Inspection Report. This field cannot be edited.
15. **Track No. / Name:** Enter the appropriate track number or track name by clicking and entering the appropriate information. Completion of this field is optional.
16. **Location of Inspection (City, County & State):** This is the location where the inspection was made. This field is auto-populated from the F 6180.96 Inspection Report. The default City and/or County and State will be the same City and/or County and State used on the inspection report. For some violations, this location may differ from the location indicated in Item 17, (e.g. inbound train movement violations). The State code will be the two-character abbreviation. This is an editable field. **Note:** For violations based on signed witness statements, this is the location where the witness observed the violation.
17. **Location of Violation (City, County & State):** This is the location where the violation occurred. This field is auto-populated from the F 6180.96 Inspection Report. The default City and/or County and State will be the same as Item 16. The State code will be the two-character abbreviation. This is an editable field. **Note:** For violations based on signed witness statements, this is the location where the violation occurred.
18. **City, County & State Where Equipment Originated:** Enter the City and/or County and State where the locomotive, car or train originated. This information may be the same as indicated in Items 16 or 17. The purpose of this field is to identify where the train received its initial terminal inspection and test. Completion of this field is mandatory if the violation is related to defective equipment or if Item 21 is completed.
19. **Location Where Locomotives Are Maintained and Previous Periodic & Daily Inspection Information:** This field consists of three sub-fields. For locomotive violations, enter the City and State where the locomotive is maintained or assigned (if applicable), in the top line or first field. This field is limited to 25 characters of text. The second line requires information pertaining to the previous periodic and daily inspection. Enter the appropriate Date, City and State for each. The information for this field should be obtained from form F 6180.49A and daily record of the locomotive. Previous periodic and daily inspection information is mandatory if the subject of the violation is related to Parts 229 or 230.
20. **Line Item:** This field is auto-populated from the F 6180.96 Inspection Report. When the violation program is launched, the user is required to choose from the reference table which line item to import from the inspection report. Once this action is completed, pertinent data from the inspection report will auto-populate this field as well as the information required for Items 21, 22 & 23, when applicable. Completion of this field is mandatory.

Item Field

21. **Equipment Initials & No.:** This field is auto-populated, when applicable, from the F 6180.96 Inspection Report. This field cannot be edited.
22. **Equipment Description:** This field is auto-populated, when applicable, from the F 6180.96 Inspection Report. This field cannot be edited.
23. **Train ID:** This field is auto-populated, when applicable, from the F 6180.96 Inspection Report. This is an editable field and must be completed if field 32 is checked "Yes."
24. **Type of Service:** Check the appropriate box. Completion of this field is mandatory.
25. **Name of Defective Component:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in field thus bypassing drop down menu if desired. Use descriptions from the CFR to identify the defective component whenever possible. Completion of this field is mandatory if fields 21 and 22 are completed. This field is limited to 150 characters of text.
26. **Location of Defective Component:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in this field thus bypassing the drop down menu, if desired. Enter a description that explains the location of the defective component. For example, "Facing side of car to the left" or "Facing end of car to the left." It is also appropriate to use AAR descriptions to locate a particular appliance on a locomotive or freight car. For example, "Left front bottom switching step," or "AR sill step." Completion of this field is mandatory if fields 21 and 22 are completed.
27. **Equipment Status:** This field will feature a drop down menu that will contain commonly used canned descriptions. In addition, the program will allow the user to write, edit and save canned descriptions as well as bypassing the drop down menu and entering text directly in the field, if desired. Completion of this field is mandatory if fields 21 and 22 are completed. This field is limited to 80 characters of text.
28. **Position of Equipment and/or Train with Relation to Some Fixed Object at Time of Inspection and/or Violation:** Orientate the equipment or train with a fixed object in the yard or track at the time of violation. For example, "BNSF 8888 on main track 200 feet east of the yard office." If unknown indicate "Unknown." Completion of this field is mandatory. This field is limited to 130 characters of text.
29. **Defect is:** Check the appropriate box. Completion of this field is mandatory if fields 21 and 22 are completed.

Item Field

30. **How Long Had Equipment Been At Place of Violation:** Enter the amount of time the equipment in violation of Federal Regulations had been at the location identified above. For example, if the equipment observed in violation had just arrived in a train enter "Just arrived." If the equipment in violation has been there for about two hours from the time of initial observation and then departs in a train enter "Approximately two hours to my knowledge." Completion of this field is mandatory if fields 21 and 22 are completed.
31. **Equipment Marked for Repairs:** Check the appropriate box. This also includes automated tracking. Completion of this field is mandatory if fields 21 and 22 are completed.
32. **Failure to Perform Air Brake Test:** Check the appropriate box. Completion of this field is mandatory.
33. **Type of Brake Test Required:** Click on the arrow to select the appropriate subject text from the drop down list. The text chosen for this field must be selected from the drop down list, manual entries are not allowed. Completion of this field is mandatory when field 32 is checked "Yes."
34. **Brakes Overdue for Periodic Attention:** Check the appropriate box. Completion of this field is mandatory.
35. **Brakes Overdue for Single Car Test:** Check the appropriate box. Completion of this field is mandatory.
36. **SCT Device Available:** Check the appropriate box. Completion of this field is mandatory if field 35 is checked "Yes."
37. **Time:** This field consists of four sub-fields for entering times relating to improper brake tests or trains operating with inoperative brakes or has air brakes due for periodic attention. Enter the appropriate times under in each of the four sub-fields. If the brakes were never applied or released, enter a hyphen (-). Completion of this field is optional, but must be completed when violation is related to improper brake tests and/or trains operating with inoperative or has air brakes due for periodic attention. Each sub-field is limited to eight characters of text.
38. **Train Consist - Locomotives - Cars - Operative Brakes:** This field consists of six sub-fields for entering information relating to train make-up and percentage of operative brakes. When entering the percentage of operative brakes, be sure to use the appropriate calculations. The calculation methodology differs between passenger and freight operations. Completion of this field is optional, but must be completed when violation is related to improper brake tests and/or trains operating with inoperative air brakes. The six sub-fields are limited to the following text characters, from left to right: 9, 2, 3, 3, 3, & 4.

Item Field

39. **State Facts Which Determine Type Of Air Brake Test Required:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in field the thus bypassing the drop down menu, if desired. Enter an appropriate statement that definitively describes the type of brake test required. For example, in the case of brake(s) cut-out, inoperative or failure to perform an Initial Terminal Brake Test, the correct entry would be "Train originally made up at this point." Completion of this field is mandatory when field 32 is checked "Yes." This field will accommodate as much text as desired by the user.
40. **Description of Use, Movement or Events Constituting Violation:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in the field thus bypassing the drop down menu, if desired. Use descriptions that affirmatively describe observed use or movement of equipment. With the exception of the Glazing and Noise standards, actual movement of equipment is not necessary for the railroad to be in violation of FRA regulations. However, violations citing actual movement will generally make a stronger case for railroad safety. Completion of this field is mandatory. This field will accommodate as much text as desired by the user.
41. **Describe Repair Facilities:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. Indicate whether or not repair facilities are available. If repair facilities available are a wheel truck or fixed repair track use the following description: "Repairs of the character required could have been made with the facilities available." If repair facilities are not available indicate "None." Completion of this field is mandatory. This field will accommodate as much text as desired by the user.

Note: If "None" is entered be certain to explain in detail under Violation Narrative why the locomotive, power car or car (passenger or freight), is in violation of Federal Regulations. The laws and regulations related to Safety Appliances require defective Safety Appliances to be repaired when found to be defective. However, the law does allow for the movement of defective Safety Appliances to the nearest location where the necessary repairs can be made if repairs cannot be made in a safe and reasonable manner at the location where they are originally found defective.

Prevailing case law suggests that neither knowledge of the defect(s) or convenience mitigates a railroad's responsibility for compliance with the Safety Appliance Laws and Regulations. The key here is whether or not repairs can be made at the location where the equipment is originally found defective in a safe and reasonable manner.

If repairs of the type needed are routinely made by a wheel truck at a particular location, then FRA will generally consider that location a location where those repairs can be made. Conversely, FRA does not expect a railroad to conduct repairs at a location that exposes its employees to unnecessary danger or risk of personal injury.

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Thus, inspectors are reminded to consider these facts and weigh the circumstances carefully when determining “safe and reasonable.”

(For a listing of factors to consider when determining whether a location is one where repairs can be made, see the new Power Brake Regulations at 232.15(f).)

42. **Description of Non-compliance:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in the field thus bypassing the drop down menu, if desired. This field must contain a detailed narrative description pertaining to the issue in non-compliance. For safety appliance violations, use any of the following three adjectives to describe the defective condition, inoperative, ineffective or insecure. For example, “Insecure end-handhold account one of two fasteners missing, or “Ineffective end-handhold account of 14” of it’s 16” clear length crushed against the car.” Completion of this field is mandatory. This field will accommodate as much text as desired by the user.
43. **Railroad Response or Remedial Action Taken in Response to Violation:** This field will feature a drop down menu that will allow the user to write, edit and save canned descriptions. In addition, manual entries may be entered directly in the field thus bypassing the drop down menu, if desired. ***Be certain to describe any agreement or disagreement with respect to findings and notification of violation and note remedial action taken by the railroad. Completion of this field is mandatory.*** This field will accommodate as much text as desired by the user.
44. **Violation Narrative:** In chronological order, write a thorough description of the violation. This should include factual information that clearly articulates the violation in detail, as well as a summary of defects observed in the train. Describe all circumstances surrounding the violation, such as movement, use or prior inspection by railroad mechanical forces. Use statements such as “I observed” or “This violation is based on personal observations.”

Consider including details that will counter any mitigating factors that railroad attorneys might submit during claims conferences. For example, if the violation is recurring and the inspector has had little or no success in achieving compliance with the railroad or individual, it would be extremely important for the inspector to include details about compliance history if not adequately detailed in field 44.

The inspector may quote a portion of the applicable regulation if this will assist the reader's understanding of the nature of the violation. Completion of this field is mandatory.

Note: If known, include a brief description of the overall compliance history at location where inspection and/or violation occurred. Enter, in percentages if possible, the overall compliance history for the last year and current year at the location where the

Item Field

violation occurred. It is also acceptable to use narrative descriptions to illustrate situations concerning current and/or past egregious and/or recurrent non-compliance.

- 45. **Date of Report:** Enter date the violation report was prepared. Completion of this field is mandatory.
- 46. **Signature of Inspector(s):** At a minimum, the first two copies of the report should bear an original signature of the inspector(s), preferably in blue ink. Completion of this field is mandatory.
- 47. **Railroad Notification:** This field has four sub-fields for entering information relating to the time, date, person and title of the railroad person notified about this violation. Enter the appropriate information. Completion of this field is mandatory.

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